IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

WP(C).No. 19070 of 2007(T)

PETITIONER:

MOHANAN PILLAI,
KOTTUVILA VEEDU(MELEPURAYIL),
ELANGAMANGALAM MURI, ENATH,
PATHANAMTHITTA DISTRICT.

BY ADV. SRI.E.D.GEORGE

RESPONDENTS:

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1. THE DIRECTOR GENERAL OF POLICE,
THIRUVANANTHAPURAM.

2. SUPERINTENDENT OF POLICE,
PATHANAMTHITTA.

3. SUB INSPECTOR OF POLICE,
ADOOR POLICE STATION.

4. GOPALA PILLAI, KOTTUVILA VEEDU,
ELAMGAMANGALAM MURI, ENATH VILLAGE.

5. SYAMALA, KOTTUVILA VEEDU,
ELAMGAMANGALAM MURI, ENATH VILLAGE.

6. RATHI, KOTTUVILA VEEDU,
ELAMGAMANGALAM MURI, ENATH VILLAGE.

7. AMBILI, KOTTUVILA VEEDU,
ELAMGAMANGALAM MURI, ENATH VILLAGE.

8. MADHAVAN, KOTTUVILA VEEDU,
ELAMGAMANGALAM MURI, ENATH VILLAGE.

9. KRISHNA PILLAI, KOTTUVILA VEEDU,
ELAMGAMANGALAM MURI, ENATH VILLAGE.

10. VIKRAMAN, KOTTUVILA VEEDU,
ELAMGAMANGALAM MURI, ENATH VILLAGE.

11. BABU, KOTTUVILA VEEDU,
ELAMGAMANGALAM MURI, ENATH VILLAGE.

12. RAJANI, KOTTUVILA VEEDU,
ELAMGAMANGALAM MURI, ENATH VILLAGE.

13. SARAMMA, KOTTUVILA VEEDU,
ELAMGAMANGALAM MURI, ENATH VILLAGE.

14. GIREESH, KOTTUVILA VEEDU,
ELAMGAMANGALAM MURI, ENATH VILLAGE.

R1 TO 3 BY GOVT. PLEADER SRI. GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R. BASANT, J.

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W.P.C.No. 19070 of 2007 T

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Dated this the 10th day of June, 2007

JUDGMENT

The petitioner is the defacto complainant in a prosecution, inter alia, under section 326 I.P.C. This case has had a checkered career. About an incident which took place on 6.7.2000, a case and counter case were registered at Adoor Police Station. Investigation was conducted into both crimes, which were registered, inter alia, under section 324 I.P.C. Final report was filed in both cases and cognizance was taken by the learned Magistrate in both cases.

2. While so, the petitioner wanted further investigation to be conducted into the case in which he is the defacto complainant. Further investigation was conducted and ultimately final report was filed alleging commission of the offence punishable, inter alia, under Section 326 I.P.C. The petitioner claims to be aggrieved by the quality of the initial investigation as also the further investigation conducted. He has filed this Writ Petition with a prayer that there may be a direction to the police to conduct further investigation again under Section 173(8) Cr.P.C. According to the petitioner, final report

must have been filed raising an allegation under Section 307 I.P.C. also. In as much as the allegation under Section 307 I.P.C. has not been raised, it is prayed that appropriate order may be passed directing conduct of further investigation under Section 173(8) Cr.P.C.

3. The learned counsel for the petitioner contends that the injuries suffered by the victims are so serious and severe that an inference that the real intention was to murder the victims must have been readily drawn by the Investigators. He further contends that there are two separate incidents. Only composite allegations are raised. Separate charges must have been raised, it is further contended. Thirdly it is contended that the weapon used for the commission of the offence has not been traced by the Investigating Officers even after the further investigation.

4. I am unable to agree that any direction for further investigation under Section 173(8) Cr.P.C. can, need or must be issued invoking the powers under Article 226 of the Constitution. I have been taken through the nature of injuries in the wound certificate. I am certainly of the opinion that the allegation under Section 326 I.P.C. having already been raised after further investigation, it is not necessary on the materials presently available to direct any further investigation to be conducted. The allegation that there

are two separate incidents is not acceptable as the allegations show that both inflictions were in the course of the same incident. Two Investigating Officers have conducted the investigation. The alleged incident took place in 2000. I find absolutely no justification in the prayer now to direct further investigation to facilitate recovery of the weapon allegedly used for the commission of the crime. I am satisfied that this Writ Petition deserves to be dismissed.

5. This Writ Petition is accordingly dismissed.

(R. BASANT)
Judge

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